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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/809,483	03/15/2001	Kurt R. Linberg	P0008945.00	5644
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MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MINNEAPOLIS, MN 55432-9924			EXAMINER NAJARIAN, LENA	
			ART UNIT 3626	PAPER NUMBER
			MAIL DATE 09/20/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 09/809,483	Applicant(s) LINBERG ET AL.	
	Examiner Lena Najarian .	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 22-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the Request for Continued Examination (RCE) filed 8/28/07. Claims 22-29 have been amended.

### ***Claim Objections***

2. Claims 23 and 24 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The Examiner suggests Applicant amend claim 23 to recite "wherein" and claim 24 may be amended to recite, "further comprising."

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. Claims 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elkind (US 2003/0158754 A1) in view of Linder et al. (US 6,681,003 B2), and further in view of Moshfeghi et al. (6,076,166).

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(A) Referring to claim 22, Elkind discloses a data communications system, comprising (abstract of Elkind):

an information network (abstract of Elkind);

means for establishing a data communications connection to the information network from a patient user data terminal equipment (Fig. 3, Fig. 4, para. 37, and para. 49 of Elkind);

a patient communications interface to access a network location after a data communications connection to the information network has been established (para. 55 of Elkind);

a patient portal interface having a network location and accessed over the information network from the patient communications interface, comprising (para. 55 and para. 56 of Elkind):

a user log-in interface including user verification (para. 12 of Elkind);

a patient welcome interface including a web page automatically assembled and presented for display as a viewable object upon user verification (Fig. 7, para. 67, and para. 68 of Elkind), and

a web page including user-selectable links to refer the patient to network locations and a web page providing access to patient medical records (Fig. 7 of Elkind).

Elkind discloses data relating to medical devices, such as pacemakers or other implants (see para. 44 of Elkind). However, Elkind does not disclose wherein the web page is assembled from objects customized to an individual implantable medical device patient, wherein the customized objects of the web page include information relevant to

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the implantable medical device implanted in the patient, and a web page providing access to patient lab records for that patient.

Linder discloses an individual implantable medical device patient and an implantable medical device database (see col. 9, lines 33-41 and col. 3, lines 5-13 of Linder).

Moshfeghi discloses wherein the web page is assembled from objects customized to an individual patient, wherein the customized objects of the web page include information relevant to the patient, and a web page providing access to patient lab records for that patient (col. 6, lines 49-62, col. 2, lines 43-57, and col. 1, lines 16-25 of Moshfeghi).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Linder and Moshfeghi within Elkind. The motivation for doing so would have been to monitor and upgrade the performance of the device (col. 3, lines 5-13 of Linder), to dynamically generate web pages based on the user's needs and preferences, and to retrieve computer based patient records (abstract and col. 2, lines 43-57 of Moshfeghi).

(B) Referring to claim 23, Elkind discloses wherein the patient communications interface includes a web browser (para. 37 of Elkind).

(C) Referring to claim 24, Elkind discloses a physician portal interface (para. 12 of Elkind).

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(D) Referring to claim 25, Elkind does not disclose wherein the physician portal interface comprises a listing of all implantable medical device patients being treated by a physician.

Linder discloses a listing of all implantable medical device patients being treated by a physician (see abstract and col. 8, lines 39-41 of Linder).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Linder within Elkind. The motivation for doing so would have been to allow for the accessing of the patient information in several ways (col. 8, lines 39-41 of Linder).

(E) Referring to claim 26, Elkind discloses wherein the physician portal interface comprises an email link, a print link, and a product information link (para. 56, para. 45, para. 46, and para. 13 of Elkind).

(F) Referring to claim 27, Elkind discloses wherein the physician portal interface includes access to a search engine to locate information on accessible servers (para. 35 of Elkind).

5. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elkind (US 2003/0158754 A1) in view of Linder et al. (US 6,681,003 B2), in view of Moshfeghi et al. (6,076,166), and in view of Johnson (US 6,915,265 B1).

(A) Referring to claim 28, Elkind discloses means for accessing back office automation operations comprising patient follow-up scheduling (para. 51 of Elkind).

Elkind, Linder, and Moshfeghi do not disclose automated billing of services.

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Johnson discloses automated billing of services (col. 26, lines 27-29 of Johnson).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned feature of Johnson within Elkind, Linder, and Moshfeghi. The motivation for doing so would have been to have the convenience of electronic payment services (col. 26, lines 28-35 of Johnson).

6. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elkind (US 2003/0158754 A1) in view of Linder et al. (US 6,681,003 B2), in view of Moshfeghi et al. (6,076,166), and in view of Wong et al. (US 6,260,021 B1).

(A) Referring to claim 29; Elkind discloses wherein the patient welcome interface includes a user-selectable link to information (Fig. 7 of Elkind).

Elkind, Linder, and Moshfeghi do not disclose authorizing for patient access by a physician.

Wong discloses setting accessing privileges and limited data for patients (col. 10, lines 38-47 of Wong).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to include the aforementioned feature of Wong within Elkind, Linder, and Moshfeghi. The motivation for doing so would have been to provide security and access control (col. 10, lines 28-30 of Wong).

Wong does not expressly disclose that the physician authorizes patient access. However, it would have been obvious to one of ordinary skill in the art at the time of the

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invention to include the aforementioned feature with the motivation of having a qualified individual determine the access appropriate for the patient.

### ***Response to Arguments***

7. Applicant's arguments with respect to claim 22 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches an automated profiler system for providing medical information to patients (US 6,581,038 B1).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Ln*

In

9-14-07

*Robert Morgan*  
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PRIMARY EXAMINER  
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